

Call to Order:

The meeting was called to order at 7:36 p.m. Present were Chair, Joan Duff, and members Ms. Anderson, Vincent Chiozzi (arrived at 7:40 pm), and John McDonnell (arrived at 7:44 pm), Mark Yanowitz, (arrived at 8:35 pm), and associate member, Jay Doherty; also present was Paul Materazzo, Director of Planning, Lisa Schwarz, Senior Planner, and Jacki Byerley, Planner.

Minutes:

On a motion by Ms. Anderson seconded by Mr. Doherty the Board voted to approve the minutes for Oct., 12th, Oct. 26th and Nov, 16, 2010. **Vote:** Unanimous (3-0)

Political Signs:

Ms. Schwarz reviewed her memo to the Board dated December 6, 2010 with amendments to the political sign bylaw proposed by Town Counsel for Town Meeting 2011.

Subdivision Rules and Regulations:

The Board opened the public hearing that was continued from the Nov. 16th meeting to consider amendments to the Planning Board's Rules and Regulation Governing the Subdivision of Land. Ms. Byerley reviewed her memo to the Board dated December 7, 2010. Ms. Byerley reviewed the proposed changes on pages 31, 32 and an example of measurement described in Section VI.C.4. as outlined in her memo to the Board:

Adding Local Street standards (page 31-32)

The Board reviewed Ms. Byerley's memo dated Dec. 7, 2010; following a detailed discussion regarding the street detail and proposed changes and the purpose of the Subdivision Rules and Regulations the Board offered the following changes:

Pg: 32, 4 (a) delete the word "exceed" and add "service more than". (see example in § X)

4 (c) reworded to clarify where the measurement started from on the right of way line

4 (e) shall read: The maximum number of driveways to be accessed off the local street shall be three driveways. The first two driveways must occur within the first 150' measured along the center line of the right of way.

Ms. Anderson noted that the wording in 4 (f) is confusing and suggested she work with staff to revise it.

On a motion by Ms. Anderson, seconded by Mr. Doherty, the Board voted to continue the public hearing to consider amendments to the Planning Board's Rules and Regulation Governing the Subdivision of Land until Jan.11, 2011 at 8:00 p.m. **Vote:** Unanimous (5-0)

Murray Hill Estates:

The Board opened the public hearing on an application by Roger White for a Modification of a Definitive Subdivision plan entitled Murray Hill Estates for the subdivision of his lot at 142 Greenwood Rd. as required in condition # 43 of the Murray Hill Estates approval. Bernie Paquin of Dana F. Perkins gave an overview of the original plan for 5-lots entitled Murray Hill Estates. Mr. Paquin gave an overview of the proposed subdivision which consists of 3 acres and is currently owned and occupied by Mr. White. There is an existing commercial building that is a

Murray Hill Estates (cont.):

grandfathered use. He also noted that at the time of the original approval, the drainage for the additional lot was included in the drainage calculations for the site. In addition as per condition # 44 the new lot must become part of the Homeowners' Association (HOA). A letter was received from the owner of the subdivision stating they are willing to accept the new lot into the HOA. Mr. White noted that due to current mortgage regulations he can't have a mortgage with a commercial building on a lot zoned for residential use. Ms. Byerley reviewed her memo to the Board dated December 7, 2010 including comments from the IDR that was held on Dec. 7th. She noted that the Board of Health submitted a letter to the Board dated December 14, 2010 approving Mr. White's waiver request pertaining to soil and percolation testing. Mr. Paquin noted the original subdivision approval predates the Stormwater Management Bylaw and noted the utilities and drainage has been constructed and the binder is done. On a motion by Mr. Chiozzi seconded by Mr. McDonnell the Board voted to close the public hearing on an application by Roger White for a Modification of a Definitive Subdivision plan entitled Murray Hill Estates for the subdivision of his lot 142 Greenwood Rd. as required in condition # 43 of the Murray Hill Estates approval. **Vote:** Unanimous (5-0)

On a motion by Mr. Chiozzi seconded by Mr. McDonnell the Board vote to approve the application by Roger White for a Modification of a Definitive Subdivision plan entitled Murray Hill Estates for the subdivision of his lot 142 Greenwood Rd. as required in condition # 43 of the Murray Hill Estates approval and adding a new condition #46 to the original Murray Hill Estates as outlined in Ms. Byerley memo to the Board dated December 8, 2010. **Vote:** Unanimous (5-0)

It should be noted that Jim Doherty has recused himself from the 9 Elm Street public hearing and left the room.

9 Elm Street:

The Board opened the public hearing on an application by Circle G, LLC for a Special Permit for a Change in Parking Space requirements for Subway, a proposed restaurant with 16 seats located at 9 Elm Street within the Andover Spa. Attorney Tim Hatch representing the applicant gave an overview of the previous uses which included Raspberries and Joey's Main Street Deli. Attorney Hatch reviewed the ZBA decision for a takeout restaurant. Mr. Chiozzi questioned the delivery times and the location where the deliveries would be unloaded. Attorney Hatch reviewed the hours of operation and noted there are five 15 min parking spaces in front of the store which can be used for deliveries. Ms Byerley reviewed her memo to the Board dated December 8, 2010, including the IDR held on December 7, 2010 and noted there were no concerns from the IDR team. The Board discussed parking and deliveries in the downtown area. The applicant, Steve Giordano noted that deliveries are usually weekly but he does not have a schedule of when or where they will be made. Those details depend on the trucking company's schedule. Sheila Doherty, President of Doherty Insurance which abuts the property noted that she welcomes the business but expressed concern that deliveries can block the driveway and parking spaces at Doherty Insurance. Ms. Doherty asked if restrictions could be put in place to have deliveries before 9:00 am. Mr. Giordano noted that it depends on the schedule of the Distributors but he thought deliveries can be done before 9:00 am. On a motion by Ms. Anderson seconded by Mr. Chiozzi the Board voted to close the public hearing on an application by Circle G, LLC for a Special Permit for a Change in Parking Space requirements for Subway,

9 Elm Street (cont.):

a proposed restaurant with 16 seats located at 9 Elm Street within the Andover Spa. On a motion by Ms. Anderson seconded by Mr. Chiozzi the Board voted to approve the application by Circle G, LLC for a Special Permit for a Change in Parking Space requirements for Subway, a proposed restaurant with 16 seats located at 9 Elm Street within the Andover Spa the approval is subject to the two conditions outlined in Ms. Byerley memo to the Board dated December 8, 2010 and a new condition # 3 which shall read: Deliveries shall occur prior to 9:00 am and shall not interfere with traffic flow and safety on Elm Street. **Vote:** Unanimous (5-0); it should be noted Mr. Doherty returned to the meeting after the vote.

Town Meeting 2011:**Cluster Development Bylaw:**

The Board took up the discussion that was continued from the Nov. 16th meeting regarding the proposed amendments to the Cluster Development Bylaw. Ms. Byerley reviewed her memo to the Board dated November 9, 2010, which included a second draft of the amendments to the Cluster Development Bylaw which will be known as Open Space Residential Development (OSRD) and questioned if the Board wants to enter this amendment for 2011 Town Meeting. Ms. Duff expressed concern that Conservation Commission has not commented on the proposed changes. Ms. Byerley noted that it's during the public hearing process that comments are received from town boards. Ms. Anderson offered the following changes:

Page 1:

7.1.3 (a), (b), & (c) change the word tract to parcel

Page 2:

The first sentence shall read: The Board recommends that the applicant attend a pre-application review at a regular business meeting of the Planning Board.

1 (a) delete the last sentence.

1 (b) suggest that the type of plan be defined.

It was suggested that Ms. Anderson work with staff on the proposed changes and to continue the discussion to the Jan. 11, 2011 meeting.

Parking Regulations:

The Board opened the discussion that was continued from the Nov. 16th meeting concerning the proposed amendments to the Parking regulations and the Table of Off-Street Parking requirements in the Zoning by-law. Ms. Schwarz reviewed her memo to the Board dated December 9, 2010 which included comments from the Board at their previous meeting. She also reviewed the vacancy rate in the downtown area, and parking demands during the day for both private and public parking lots. Mr. McDonnell noted that the Board wants to encourage revitalization to the downtown area. Mr. Doherty noted that there needs to be some type of review for restaurant type businesses. The Board discussed parking and the parking sticker program outlined in Ms. Schwarz memo. Ms. Schwarz noted that there are underutilized parking spots in both the municipal lots and reviewed the table of off street parking outlined in her memo to the Board. The Board agreed to continue the discussion to the Jan. 11, 2010 meeting.

The Legends I:

Ms. Byerley gave an overview of the Legends I, Master Deed, Declaration of Trust, Amended Golf Easement, Amended Conservation Restriction, Quitclaim Deed to Cormier Andover Greenbelt and the Drainage Easement to the Town documents. Ms. Byerley noted that Town Counsel has reviewed and approved the documents and noted that within the Board's decision the Board needs to approve the documents prior to recordation. Attorney Kristen Sheehan of Johnson and Borenstein office noted that these are standard documents and have been submitted and approved by Town Counsel and DPW. The Board expressed concern that the documents reflect all the changes that have taken place to the Legends. Ms. Byerley noted that both she and Town Counsel have reviewed the current plan/approval with the documents and they match. Ms. Byerley noted the Board placed the condition in the approval to make sure the documents get recorded. Ms. Sheehan reviewed condition #15 of the Board approval dated Jan. 9, 2007. The Board discussed the process of approving the legal documents. On a motion by Mr. McDonnell seconded by Mr. Yanowitz the Board voted that the legal documents per condition # 15 be approved and be recorded. A list of the documents are outlined in a letter to the Board from Johnson & Borenstein office dated Dec. 10, 2010. **Vote** (3-2) Mr. McDonnell, Ms. Duff and Mr. Yanowitz voting yes; Ms. Anderson and Mr. Chiozzi voting no.

It should be noted that Ms. Duff has recused herself from the Reynolds Street discussion and left the room.

Reynolds Street:

The Board took up the discussion on a minor modification request by Vale Realty Trust to delete condition # 8 of the Board's approval that requires the installation of an on-site disposal system prior to start of construction. Ms. Byerley reviewed her memo to the Board dated November 10, 2010 and reviewed the Board of Health recommendation for approval because sewer is available. On a motion by Ms. Anderson seconded by Mr. Doherty the Board voted to find the request to delete condition # 8 of the Board's approval to be minor. **Vote:** Unanimous (5-0); On a motion by Ms. Anderson seconded by Mr. Doherty the Board voted to approve the a minor modification request by Vale Realty Trust to delete condition # 8 of the Board's approval that requires the installation of an on-site disposal system prior to start of construction. **Vote:** Unanimous (5-0)

Reynolds Street:

The Board took up the discussion on a minor modification request by Vale Realty Trust to amend condition #5 of the Board's approval to read: "The paved roadway shall be centered within the Reynolds Street layout". Ms. Byerley reviewed her memo to the Board dated November 10, 2010 and comments from DPW dated November 9, 2010. The Board reviewed the plan and DPW's comments. Ms Anderson gave her reasoning as to why this should not be considered a minor modification. Ms. Byerley reviewed the plan, the Board's condition # 5 as outlined in her memo to the Board, and the existing driveway at 231 Andover Street. Ken Cram of Landstrategies LLC, reviewed a letter to the Board dated November 8, 2010 and discussed the bounds in the roadway. The Board discussed the roadway and the bounds and asked who placed the bounds. William Johnson the applicant stated he placed the bounds per the Land Court. Ms. Anderson noted that the public hearing process drove the original decision, and expressed concern with the process of changing that decision. Mr. Johnson noted that he sent letters about

Reynolds Street (cont.):

the minor modification discussion to the direct abutters who may be affected by the roadway. On a motion by Ms. Anderson seconded by Mr. Doherty the Board voted to find the minor modification request by Vale Realty Trust to amend condition #5 of the Board's approval to read: "The paved roadway shall be centered within the Reynolds Street layout" is not a minor modification. . **Vote** (4-1) Ms. Anderson, Mr. Chiozzi, Mr. Yanowitz and Mr. Doherty voting yes; and Mr. McDonnell voting no.; it should be noted that Ms. Duff returned after the vote.

I-93 Update:

The Board opened the discussion on the proposed I-93 Interchange. Mr. Materazzo reviewed his memo to the Board dated December 9, 2010. He updated the Board on a meeting today with representatives from the Lowell Junction Interchange Task Force (LJTF), the MVPC and Planning Board liaison Joan Duff and Jack McDonnell. Mr. Materazzo expressed the opinion that mitigation measures are premature at this stage of the process but noted that the Board should support the latest concept and support the series of mitigation measures that are being recommended by the LJTF. Mr. McDonnell reviewed the Environmental process that triggers certain mitigation measures which will be addressed during that process. Ms. Anderson asked if the other towns have mitigation list. Mr. Materazzo noted that they don't at this time because it's premature at this phase of the process. Mr. Yanowitz asked if the task Force would still support the interchange if some of the mitigation items outline in paragraph two were not taken into consideration. Kerry O'Kelly, a member of the Lowell Junction Task Force, noted the Task Force would have to reconsider the impact on how necessary the items are. Mr. Yanowitz noted that some of the mitigation items need to be addressed whether the I-93 Interchange gets built or not. Mr. McDonnell explained traffic calming and the effects it has on the roadways and how and when that traffic mitigation comes out in the Environmental process. Ms. O'Kelly noted that she wants the list on the radar and they want to protect local roads.

On a motion by Ms. Anderson seconded by Mr. Yanowitz the Board voted at their December 14, 2010 meeting to write a letter of support recommending that the Board of Selectmen support an interchange configuration that facilitates the development of land in the Lowell Junction area through the creation of a system of access roads that would become public ways in the community in which each is developed, thus supporting Tewksbury's desire to not provide a direct connection to existing local roadways. During the course of review development proposals, access for public safety vehicles to the local Tewksbury street network shall be accommodated. The Board wishes to support inclusion of the latest Report, as originally prepared by the Merrimack Valley Planning Commission for a proposed new interchange on Interstate Route 93 between the Route 125 and Dascomb Road exists. This support should be interpreted as a sign that rigorous review and refinement. The Board's support is for inclusion of this configuration as worthy of additional analysis as part of the Environmental Review currently underway. **Vote:** Unanimous (5-0)

On a motion by Ms Anderson seconded by Mr. Yanowitz the Board acknowledges the importance of the mitigation items as identified by the Lowell Junction Task Force in the attached list. We would anticipate that these items will be further evaluated and addressed as the Environmental Review Process moves forward, including the Environmental Impact Report and Environmental Impact Statement. **Vote:** Unanimous (5-0)

Adjournment: The Board voted to adjourn the meeting at 11:00 p.m.